IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: TUNNA et al. Serial No.: 10/578,546 Filed: May 5, 2006

... Y

International Application No. PCT/GB04/04660

I.A. Filing Date: November 4, 2004

Docket No.: M04B100

Title: IMPROVEMENTS IN DRY PUMPS

Mail Stop Petitions Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

CERTIFICATE OF I	MAILING
I hereby certify that this correspondence and ever enclosed is being deposited with the United State postage as first class mail in an envelope address P.O. Box 1450, Alexandria, VA 22313-1450 on _	s Postal Service with sufficient sed to: Commissioner for Patents,
Betty Lee Printed name of person signing this certificate	Signature of person mailing

Sir:

PETITION FOR FILING UNDER 37 C.F.R. § 1.47(a)

The applicant(s) hereby respectfully petition(s) the Commissioner of Patents to accept the filing of the above-identified application by other than all of the joint inventors in accordance with the provisions of 37 C.F.R. § 1.47(a).

Enclosed hereto is: (a) a declaration of joint inventor(s) Clive Marcus Lloyd Tunna and Mark Edward Tomkins on his (or her) own behalf and on behalf of the omitted inventor(s); and (b) a statement of facts in support of filing on behalf of the omitted inventor(s).

The name, address and citizenship of the joint inventor who refuses to execute the application or cannot be reached is as follows:

03/12/2007 JBALINAN 00000085 022865 10578546

Full name: Allan Edmiston McDiarmid

Citizenship: United Kingdom

Residence address: 2477 Somerset Blvd., Apt. 211

Troy, MI 48084

Country of residence: USA

The Commissioner is hereby authorized to charge to Deposit Account No. 02-2865, the \$200.00 fee required under 37 CFR 1.17(g).

The Commissioner is requested to grant any necessary extension of time and is authorized to charge any additional fee, if required, to our Deposit Account No. 02-2865. This request is submitted **in triplicate**.

Respectfully submitted,

The BOC Group, Inc.

Legal Services-Intellectual Property

575 Mountain Ave.

Murray Hill, NJ 07974

Customer No. 020411

Ira Lee Zebrak

Reg. No. 31,147

(908) 771-6469

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FEE Under 37 CFR 1.17(f), (g) & (h) TRANSMITTAL

(Fees are subject to annual revision)

Send completed form to: Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450

Application Number	10/578,546	
Filing Date	May 5, 2006	
First Named Inventor	TUNNA et al.	
Art Unit		
Examiner Name		
Attorney Docket Number	M04B100	

/ .	Enclosed is a petition filed under 37 CFR $\frac{\$}{1.47}$ that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of $\$^{200.00}$ is enclosed. This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.
	Payment of Fees (small entity amounts are NOT available for the petition fees) The Commissioner is hereby authorized to charge the following fees to Deposit Account No. X petition fee under 37 CFR 1.17(f), (g) or (h) X any deficiency of fees and credit of any overpayments Enclose a duplicative copy of this form for fee processing.
	Check in the amount of \$ is enclosed.
	Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form
	Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462 For petitions filed under: § 1.36(a) - for revocation of a power of attorney by fewer than all applicants § 1.53(e) - to accord a filing date. § 1.57(a) - to accord a filing date. § 1.182 - for decision on a question not specifically provided for. § 1.183 - to suspend the rules. § 1.378(e) - for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent. § 1.741(b) - to accord a filing date to an application under § 1.740 for extension of a patent term.
	Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463 For petitions filed under: § 1.12 - for access to an assignment record. § 1.14 - for access to an application. § 1.47 - for filing by other than all the inventors or a person not the inventor. § 1.59 - for expungement of information. § 1.103(a) - to suspend action in an application. § 1.136(b) - for review of a request for extension of time when the provisions of section 1.136(a) are not available. § 1.295 - for review of refusal to publish a statutory invention registration. § 1.377 - for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent. § 1.550(c) - for patent owner requests for extension of time in exparte reexamination proceedings. § 1.956 - for patent owner requests for extension of time in inter partes reexamination proceedings. § 5.12 - for expedited handling of a foreign filing license. § 5.15 - for changing the scope of a license. § 5.25 - for retroactive license.
	Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464 For petitions filed under: § 1.19(g) - to request documents in a form other than that provided in this part. § 1.84 - for accepting color drawings or photographs. § 1.91 - for entry of a model or exhibit. § 1.102(d) - to make an application special. § 1.138(c) - to expressly abandon an application to avoid publication. § 1.313 - to withdraw an application from issue. § 1.314 - to defer issuance of a patent.
0	Fra Tee Mush 5,2007 Signature Signature March 5,2007
	Ira Lee Zebrak
	Typed or printed name Registration No., if applicable

This collection of information is required by 37 CFR 1.17. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket: M04B100 Applicant(s): Tunna et al.

I.A. No.: PCT/GB04/04660 I.A. Filing Date: November 4, 2004

U.S. Application No. 10/578,546 Priority Date: November 10, 2003

Title: IMPROVEMENTS IN DRY PUMPS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

CERTIFICATE OF MAILING

I hereby certify that this correspondence and every writing referred to herein as being enclosed is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

(Date)

Betty Lee

Printed name of person signing this certificate

Signature of person mailing

STATEMENT OF FACTS IN SUPPORT OF FILING ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)

This statement is made as to the facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application. This statement is being made by the available person having first-hand knowledge of the facts recited herein.

Last Known Address of the Nonsigning Inventor

Allan Edmiston McDiarmid

Full Name of Nonsigning Inventor

2477 Somerset Boulevard, Apt. 211, Troy, MI 48084

Last Known Address of Nonsigning Inventor

Details of Efforts to Reach Nonsigning Inventor

On September 19, 2006, Mr. McDiarmid telephoned me at my office at 575 Mountain Avenue, Murray Hill, NJ 07974, in response to my letter of August 24, 2006 (copy attached) which was sent to him together with a copy of patent application serial number 10/578,546, filed May 5, 2006, entitled Improvements in Dry Pumps of which he is a co-inventor. Also enclosed with the letter were an inventor's Declaration form, an Assignment form, and a Power of Attorney form for his review and execution. A copy of each of the letter, patent application, and forms referred to above as sent to Mr. McDiarmid are attached.

Details of Refusal of Nonsigning Inventor to Sign Application Papers

During the telephone call of September 19, 2006 initiated by Mr. McDiarmid, Mr. McDiarmid advised me that he would not sign the Declaration, the Assignment, nor the Power of Attorney forms accompanying my August 24, 2006 letter nor any papers regarding BOC. He told me that he left the employ of BOC over a year ago and is not willing to sign anything. I could not persuade him otherwise. (A copy of a memo to file regarding Mr. McDiarmid's conversation with me is also attached.)

Ira Lee Zebrak

Name of Person making Statement

2 planet Signature of Person making Statement

March 5, 2007

Attachments:

Letter to Mr. McDiarmid dated August 24, 2006 including:

Declaration for Utility or Design Patent Application;

37 CFR Section 1.56;

Patent Application Serial Number 10/578,546;

Preliminary Amendment;

Assignment; and

Power of Attorney

Memo to File of Case No. M04B100 dated September 19, 2006



575 Mountain Avenue Murray Hill New Jersey 07974-2082 U.S.A.

Tel: 908 -665-2400

August 24, 2006

Mr. Allan Edmiston McDiarmid 2477 Somerset Blvd., Apt. 211 Troy, MI 48084

RE: U.S. Patent Application No. 10/578,546

Filed: May 5, 2006

Entitled: Improvements in Dry Pumps

Dkt. No.: M04B100

Dear Mr. McDiarmid:

Enclosed please find a copy of the above-referenced patent application for the invention of which you are a co-inventor. Also enclosed for your execution is an inventor's Declaration to be signed (and dated) by you in blue ink; (b) an Assignment which you should please sign on the same date that you sign (and date) the Declaration, and (c) Power of Attorney and Correspondence Address Indication Form which you should also please sign and date.

Please review the application carefully and make sure that you agree with it's contents prior to executing the Declaration.

If there are no changes to be made, read the Declaration carefully, paying particular attention to the fact that, by signing the Declaration, you acknowledge the following:

- a) To the best of your knowledge, you are the first and true inventor of the subject matter of the patent application.
- b) You owe the highest duty of candor and good faith in your dealings with the Patent and Trademark Office, and in discharge of this duty, you must disclose to the Patent and Trademark Office any information of which you are aware that is "material to examination of this application" as defined in the attached 37 CFR Section 1.56. Such information is material when, at least in part, there is a substantial likelihood that a patent examiner would consider it important in deciding whether the subject matter of the present application is patentable.

After these steps have been taken, please sign (and date) the Declaration.

The Assignment should be signed by you <u>and notarized</u> at the same time that you sign and date the Declaration.

The Power of Attorney and Correspondence Address Indication Form should be signed and dated by you.

Please return the application copy with the <u>signed</u> Declaration, <u>signed</u> Assignment and <u>signed</u> Power of Attorney. The extra copy of the application is for your records.

On behalf of BOC Edwards, thank you once again for your submittal of the above-referenced invention record. Your interest in creating new ideas and willingness to formally document them are greatly appreciated. If you should have any questions, please feel free to telephone me.

Sincerely yours,

Ira Lee Zebrak Esq.

Senior Counsel - Intellectual Property

Legal Services

E-mail: ira.zebrak@boc.com

Tel: (908) 771-6469 Fax: (908) 771-6159

Assistant: Ms. Betty Lee (908) 771-6481

Enclosures

Declaration (w/application attached)

37 CFR Section 1.56

Assignment

Power of Attorney and Correspondence Address Indication Form

Application

THE BOC GROUP

MEMORANDUM - LEGAL SERVICES

From: Ira Zebrak

Date: September 19, 2006

To:

File

Re:

Case No. M04B100

Today I received a phone call from Mr. Allan McDiarmid in response to our letter of August 24, 2006 transmitting a patent application regarding U.S. Patent Application No. 10/578,546, filed May 5, 2006, entitled Improvements in Dry Pumps, Docket No. M04B100

Mr. McDiarmid advised me that he would not sign the Declaration for the Patent Application, the Assignment, nor the Power of Attorney Forms accompanying my August 24, 2006 letter nor any papers regarding BOC. He told me that he left the employ of BOC Edwards over a year ago and is not willing to sign anything.

I could not persuade him otherwise.

Ira Lee Zebrak

Senior Counsel-Intellectual Property

Legal Services

575 Mountain Ave.

Murray Hill, NJ 07974

ILZ:bjl